



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 7**

11201 Renner Boulevard  
Lenexa, Kansas 66219

**DEC 14 2015**

**CERTIFIED MAIL**

**RETURN RECEIPT REQUESTED**

Article Number: 7014 1200 0000 6123 9989

Ms. Karlie Clemons Webb  
Troutman Sanders LLP  
Attorneys at Law  
Bank of America Plaza  
600 Peachtree Street NE, Suite 5200  
Atlanta, Georgia 30308-2216

RE: CVS Pharmacy #8526  
Cedar Rapids, Iowa  
RCRA ID No.: IAR000516807

Dear Ms. Webb:

**Letter of Warning/Request for Information**

On August 25, 2014, a representative of the U. S. Environmental Protection Agency inspected CVS Pharmacy #8526. The inspection was conducted under the authority of Section 3007 of the Resource Conservation and Recovery Act (RCRA).

My staff has reviewed the inspection report, and your September 16, 2014, response to the Notice of Preliminary Findings (NOPF) and determined that violations of RCRA were documented. We are requesting additional information regarding your client's facility's compliance status. Enclosed is a list of violations followed by a list of questions and/or requested information. Also enclosed are instructions to be used in providing your response. Please carefully read and follow these instructions. Your response to this request in accordance with the instructions is required by Section 3007 of RCRA and substantial penalties may result from not complying. Please note that the EPA reserves its right to pursue appropriate enforcement actions, including penalties, for violations discovered as a result of the inspection, regardless of whether the violations were subsequently corrected.



Printed on Recycled Paper

Within thirty (30) calendar days of receiving this letter, please mail your response to: Marc A. Matthews, AWMD/WEMM, U. S. Environmental Protection Agency, 11201 Renner Boulevard, Lenexa, Kansas 66219. To request an extension of the time limit, follow the instructions in the enclosure. Please direct all questions concerning this letter to Mr. Matthews, of my staff, at (913) 551-7517.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Donald Toensing', is written over a faint circular stamp.

Donald Toensing  
Chief

Waste Enforcement and Materials Management Branch  
Air and Waste Management Division

Enclosures (3)

cc: Gary Cormican  
Store Manager  
CVS Pharmacy #8526  
4116 Center Point Road NE  
Cedar Rapids, Iowa 52402

Mr. Cal Lundberg, Chief, Contaminated Sites Section  
Iowa Department of Natural Resources

List of Violations  
CVS Pharmacy #8526  
Cedar Rapids, Iowa  
RCRA ID No.: IAR000516807

- NOPF 1 40 CFR 262.34(a)(1)(i) → 265.174  
Failure to perform weekly inspections of a hazardous waste container accumulation area.
- NOPF 2 40 CFR 262.34(a)(4) → 265.52(c)  
Failure to describe arrangements with local emergency agencies in the RCRA Contingency Plan.
- NOPF 3 40 CFR 262.34(a)(4) → 265.52(d)  
Failure to list the address and telephone numbers (both home and office) of the emergency coordinator in the RCRA Contingency Plan.
- NOPF 4 40 CFR 262.34(a)(4) → 265.52(e)  
Failure to describe the capabilities of emergency equipment in the RCRA Contingency Plan.
- NOPF 5 40 CFR 262.34(a)(4) → 265.55  
Failure to designate an emergency coordinator who can reach the facility in a short amount of time in the RCRA Contingency Plan.
- NOPF 6 40 CFR 262.20  
Failure to use hazardous waste manifest to ship hazardous waste.
- NOPF 7 40 CFR 268.7(a)(2)  
Failure to include all EPA hazardous waste codes on land disposal restriction notifications.
- NOPF 8 40 CFR 262.20(a)(1) → Part 262 Appendix, Item Number 13  
Failure to list accurate EPA hazardous waste codes on hazardous waste manifests.
- NOPF 9 40 CFR 262.34(a)(4) → 265.16(d)(3)  
Failure to maintain a written description of the type and amount of introductory and continuing training provided.

List of Requested Information  
CVS Pharmacy #8526  
Cedar Rapids, Iowa  
RCRA ID No.: IAR000516807

In your, September 17, 2014, response to the Notice Of Preliminary Findings (NOPF), you stated, "Specific to Issues 3 and 5 in the Notice, related to identifying and providing personal contact information for an emergency coordinator, you'll note that the store-specific components of the Store's emergency preparedness documents are primarily found in the EPP Summary, posted near out-dialing telephones. CVS views that document collectively along with the EPP and the Contingency Plan, as indicated on page 4 of the Contingency Plan. Also, please note that as described on Page 9 of the Contingency Plan, CVS's emergency response protocols include as a key component the involvement of 3E Company to assist the store with response to a variety of situations that may arise. CVS's emergency response protocols intentionally have been developed to require notification of both a local contact and CVS's vendor, 3E Company, in the event of an emergency involving hazardous waste. The local contact and 3E Company work jointly to coordinate emergency response measures. In some cases, this may mean that 3E provides guidance to store personnel over the phone to contain and properly clean up a spill. In other cases, this may mean that 3E assists the store in defining the scope of the release or other emergency, then proceeds to provide additional direction to store personnel in an effort to mitigate the release, dispatch CVS's emergency contractor, EQ Industrial Services, Inc., and make required notifications on the store's behalf. We believe that the emergency response contact information in the EPP Summary provides an effective process for notifying and managing any environmental concerns that may arise at such a retail setting. Also, please note that with regard to listing store personnel personal information such as telephone numbers and home addresses, as noted in the Contingency Plan on page 9, such personal information is not included due to confidentiality concerns. The EPP Summary had been completed and properly posted near out-dialing telephones. The contingency plan has been provided to the Store for maintenance in store files."

EPA disagrees with your assessment and interpretation of the regulations. The citations noted in NOPF 3 and NOPF 5 with regard to emergency coordinators follow:

40 CFR 262.34(a)(4)→265.52(d) Failure to list the address and telephone numbers (both home and office) of the emergency coordinator in the RCRA Contingency Plan.

40 CFR 262.34(a)(4) States that a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that the generator complies with the requirements for owners or operators in subparts C and D in 40 CFR part 265, with §265.16, and with all applicable requirements under 40 CFR part 268 and 40 CFR 265.52 specifies that the content of contingency plan must list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator, and this list must be kept up to date. Where more than one person is listed, one must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates.

40 CFR 262.34(a)(4)→265.55 Failure to designate an emergency coordinator who can reach the facility in a short amount of time in the RCRA Contingency Plan.

40 CFR 262.34(a)(4) States that a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that the generator complies with the requirements for owners or operators in subparts C and D in 40 CFR part 265, with §265.16, and with all applicable requirements under 40 CFR part 268 and 40 CFR 265.55 states that at all times, there must be at least one employee either on the facility premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures. This emergency coordinator must be thoroughly familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, the location and characteristics of waste handled, the location of all records within the facility, and the facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan.

In your response to this request, please provide documentation to indicate that you have designated an emergency coordinator who can reach the facility in a short amount of time in the RCRA Contingency Plan and a copy of the RCRA Contingency Plan listing the address and telephone numbers (both home and office) of the emergency coordinator.

### 3007 RESPONSE INSTRUCTIONS

- \* Identify the Person(s) responding to this request on your behalf.
- \* Address each numbered item separately, and precede each answer with the number of the item to which it responds.
- \* For each numbered item, identify all documents consulted, examined, or referred to in the preparation of the answer, or that contain information responsive to the requested item. Provide true, accurate, and legible copies of all such documents. (If information responsive to an item is available but there are no relevant source documents, you must still provide the information.)
- \* For each document provided, indicate on the document (or in some similar manner) the number of the item to which it responds.
- \* For each numbered item, identify all persons consulted in the preparation of the answer.
- \* For purposes of this request, the term "you" or "your" refers to the company, corporation and any officer, principal, agent employee, or any other person(s) associated in any capacity.
- \* If information responsive to a requested item is not in your possession, identify the person(s) from whom the information may be obtained.
- \* If information that is not known or available at the time you make your response later becomes known or available to you, you must supplement your response.
- \* If, at any time after you submit your response, you find that any part of the information you submitted is incomplete, false, or misrepresents the truth, you must notify the EPA immediately.
- \* You must provide the requested information even though you consider it confidential information or trade secrets. If you want to make a confidentiality claim covering part or all of the information submitted, in accordance with 40 CFR 2.203(b), you must do so by placing on (or attaching to) the information, at the time it is submitted to EPA, a cover sheet, stamped or typed legend that identifies the material with words such as "trade secret," "proprietary," or "company confidential." Please make such claims in a bold, clearly identifiable manner, such that immediately upon viewing the information it is evident that a claim of confidentiality has been made.
- \* The EPA will disclose this information only to the extent and by the means described in 40 CFR Part 2, Subpart B., provided that it qualifies as confidential business information.
- \* A request for an extension to the time limit for responding must be in writing and must be postmarked within five (5) calendar days of receipt of this information request. Address it to the person identified in the cover letter to receive your response.
- \* Copies of the Code of Federal Regulations may be obtained from the U.S. Government Bookstores or on the Internet at [www.epa.gov/epahome/cfr40.htm](http://www.epa.gov/epahome/cfr40.htm).
- \* This request for information is not subject to the approval requirements of the Paperwork Reduction Act of 1980.
- \* The EPA encourages you to conserve resources. Suggested methods include use of recycled paper, printing on both sides (duplex printing), and when possible submitting documents electronically (i.e., email or compact discs). If hard copy submittals are necessary, please do not submit documents in binders

Not responding to this information request within the stated time limit and in accordance with these instructions may subject your facility to an enforcement action which could include the imposition of penalties of up to \$37,500 per violation, per day of continued noncompliance. Providing false, fictitious, or fraudulent statements or representations could lead to criminal penalties.